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C O N F I D E N T I A L SECTION 01 OF 02 TEL AVIV 002409

SIPDIS

STATE FOR NEA FOR FRONT OFFICE; NEA/IPA FOR
GOLDBERGER/HOLMSTROM; NSC FOR SHAPIRO/KUMAR; JCS FOR
GENERAL SELVA; OPS PLEASE PASS TO SECRETARY'S TRAVELING
PARTY, SENATOR MITCHELL AND ASSISTANT SECRETARY FELTMAN

E.O. 12958: DECL: 10/23/2019

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SUBJECT: MOD SETTLEMENTS STRATEGY DEPENDENT ON US-ISRAEL
NEGOTIATIONS

Classified By: Ambassador James B. Cunningham for reasons 1.4 (b), (d)

11. (C) SUMMARY: The MOD is taking a wait-and-see approach on both settlements and outposts, pending the outcome of USG-GOI negotiations on a moratorium, according to Oded Herman, Senior Advisor to MOD Pol-Mil Director Amos Gilad. On settlements, Herman noted that any MOD attempts to restrict the implementation of approved regional/local settlement construction plans would instigate lawsuits or require government compensation for monies already invested by construction companies, banks, or buyers who have paid for their homes (i.e., for any projects that already have been contracted out to, marketed by, or tendered to companies). Herman said on outposts that the MOD has put on hold development of plans to dismantle outposts established after March 2001 and has ceased negotiations with settler leaders for voluntary evacuation of those sites. In response to questions on upcoming hearings on court-ordered dismantlements at three outposts, Herman told EconCouns and Econoff that the MOD planned to ask the Israeli High Court for additional extensions due to "the sensitive domestic and international climate." (COMMENT: This is the first time our GOI interlocutors have linked inaction on outposts to negotiations of a settlement moratorium.) END SUMMARY AND COMMENT.

SETTLEMENT CONSTRUCTION

12. (C) On October 21, Oded Herman, Senior Advisor to MOD-Pol-Mil Director Amos Gilad, told EconCouns and Econoff that the MOD was awaiting agreement between the USG and GOI on settlements before taking any action on curbing settlement construction. In response to questions regarding a recent Peace Now report documenting new construction in 34 West Bank settlements, Herman opined that the majority of this construction was likely legal and being built under regional or local settlement plans approved "years ago." Herman noted GOI concern that, absent an overall GOI decision to take measures to freeze settlements, any MOD attempt to stop construction would instigate lawsuits or entail government compensation for monies already invested by construction companies, banks, or buyers who have paid for their homes. He opined that settlers and building companies likely feel threatened by the possibility of a settlement moratorium and are attempting to build as much as possible under previously approved plans in order to grandfather in these projects as existing construction in any USG-GOI agreement on settlements. Herman reminded Emboffs that in the West Bnk, local settlement councils issue building permits, not the MOD. (NOTE: Although Herman was tlking about construction

projects that are already proceeding, the GOI would also likely have to cancel and compensate investors to walk away from projects that have been already contracted out, marketed, or tendered if it were to implement a protracted freeze. For a permanent freeze, the GOI would have to cancel the approval of any unimplemented plans. END NOTE)

13. (C) In a separate October 19 meeting, Peace Now's Settlement Watch Coordinator Hagit Ofran (PLEASE STRICTLY PROTECT) told Econoff that she met with Eitan Broshi, Settlement Advisor to Defense Minister Barak, following the publication of the organization's most recent report. Broshi, who requested the meeting, was reportedly "eager" to meet with Ofran and discussed with her each instance of settlement construction reported by Peace Now. Ofran noted that Broshi did not appear to be aware of the recent construction in some settlements and questioned the legality of construction in some others.

14. (C) According to Ofran, the Civil Administration does not enforce construction laws inside the settlements' official municipal boundaries, under a 1998 directive from the IDF Central Command. This limits the extent to which the Civil Administration is aware of ongoing illegal construction, allowing settlers to continue building without much concern. Ironically, local settlement councils--which often initiate, fund, and support legal and illegal construction--are largely responsible for identifying unauthorized building going on within settlement boundaries. (COMMENT: Based on Ofran's observations, it appears that the only way the GOI could effectively monitor a construction moratorium would be to increase its surveillance and its enforcement within each

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settlement. END COMMENT)

15. (C) Peace Now's October 5 report claims that since spring 2009, settlers have started construction on some 800 units in 34 West Bank settlements. This construction largely consists of infrastructure work--land clearing, pipe laying, and road preparation--however, according to Ofran, 50 buildings are currently under construction and foundations have been laid for another 50. Ofran told Econoff that construction in at least four settlements lacks government approvals: Avnei Hefetz (10 units); Nokdim (10 units), Kokhav Ya'acov (12 units), Alonei Shilo (2 units), Shilo (units unknown). Yesh Din additionally claims new construction has commenced in the settlements of Rosh Zurim, Nili, and Bracha, though we do not yet have independent confirmation of this assertion.

OUTPOSTS

16. (C) Herman also told Emboffs that any MOD strategy on outposts will depend on the outcome of negotiations between U.S. Special Envoy Mitchell and Prime Minister Netanyahu's office. Despite previous statements by Defense Minister Barak saying that the MOD would evacuate outposts this month, the MOD has made no effort to develop plans to dismantle outposts established after March 2001 and has ceased negotiations with settler leaders for the voluntary evacuation of those sites. Herman lamented, "there's no one to talk to," and explained that YESHA Council leaders are not only unable to deliver any voluntary outpost evacuations, but are also losing authority with the settlers. Herman also voiced concern over the growth of anarchist groups within West Bank settlements. Individuals in these groups not only oppose outpost evacuation, but are quick to use violence and cannot be controlled because they do not identify with or respect any leadership (government, YESHA, or rabbis), according to Herman.

17. (C) Regarding two upcoming court cases on the evacuation

of the Derech Ha'avot outpost and the demolition of 18 homes in the Hayovel and Haresha outposts, Herman said the MOD plans to request additional extensions from the Israeli High Court due to "the sensitive international and domestic climate." The Civil Administration has not acted on about 25 demolition orders for the Derech Ha'avot outpost issued since 2007. This outpost is entirely located on private Palestinian land. The Hayovel and Haresha case has been in court for approximately four years, during which time, the MOD has requested 20 extensions delaying the court order to demolish these 18 homes.

18. (C) COMMENT: While Herman and others have put off our past queries on the status of Barak's previously announced plans to demolish 26 post-March-2001 outposts, this is the first time this issue--a longstanding Roadmap commitment--has been linked by the GOI to the Mitchell-Molcho discussions on settlements. We urge Washington to encourage Israel to meet its commitments on outposts and uphold Israeli law, as instructed by High Court regardless of the outcome of US-Israel negotiations. While we would additionally welcome a decision by Israel to freeze settlements, the USG should be clear that an effective moratorium would entail the cancellation and, if necessary, compensation of other approved, but not yet implemented settlement plans.
CUNNINGHAM